



Department of Planning, Building and Code Enforcement

STEPHEN M. HAASE, AICP, DIRECTOR

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

PP03-09-289. Public Project for demolition of existing industrial buildings and construction of a 76,000 sq. ft. public park including fields, basketball courts, swings, picnic areas, restrooms, street improvements, and a six-foot high fence adjacent to the railroad tracks located on the block bounded by Bellevue Avenue, Monterey Highway, Union Pacific Railroad tracks, and Pomona Avenue. The project site includes the properties at 50, 90, 100, 102, 110, 120, 136, 138, and 150 Bellevue Avenue (APN 434-24-074, 073, 072, 071, 070, 069, 000, and 068). (various, Owner, City of San Jose Redevelopment Agency, Developer). Council District: 7

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on October 15, 2003, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **September 26, 2003** and ends on **October 15, 2003**.

The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the Biblioteca Latinoamericana Branch Library, 921 South First St., San José, CA 95110, San José, CA 95110 San Jose, and online at www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2003.htm Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Jodie Clark** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: _____

Deputy

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Bellevue Avenue Park

PROJECT FILE NUMBER: PP03-09-289

PROJECT DESCRIPTION: Construction of a 76,000 sq. ft. public park. The proposed park would include fields, basketball courts, swings, picnic areas, and restrooms. In addition, the project would include street improvements, such as sidewalks, curbs, gutters, street lighting, trees along the street, and asphalt/concrete paving. Parking facilities would be available on the surrounding streets. The project would include night lighting within the park for security purposes and would include a 6-foot high fence to separate the park from the adjacent railroad tracks. Trees would be planted along the fence for screening purposes. This project will also include the demolish of existing warehouse and industrial buildings

PROJECT LOCATION & ASSESSORS PARCEL NOs.: The project site is located on the block bounded by Bellevue Avenue, Monterey Highway, Union Pacific Railroad tracks, and Pomona Avenue in San Jose, California. The project site would include the properties at 50, 90, 100, 102, 110, 120, 136, 138, and 150 Bellevue Avenue. (APN 434-24-074, 073, 072, 071, 070, 069, 000, & 068)

COUNCIL DISTRICT: 7

NAME OF APPLICANT: City of San Jose Redevelopment Agency

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON: Bill Ekern, 50 W. San Fernando Street, Suite 1100, San Jose, CA 95112, (408) 749-1170

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

1. Mitigation Measure BIO-1: Replace Removed Trees

Each tree to be removed will be mitigated at the following ratios:

- Each tree less than 12 inches in diameter to be removed: one 15-gallon tree
- Each tree 12–18 inches in diameter to be removed = two 24-inch box trees
- Each tree greater than 18 inches in diameter to be removed = four 24-inch box trees. Trees greater than 18" diameter shall not be removed unless a tree removal permit has been approved for the removal of such trees.

2. Mitigation Measure CR-1: Employ Archaeological Monitor during Ground Disturbance

Because the project area is sensitive for buried cultural resources, a qualified archaeological monitor will be present during all ground-disturbing construction. The monitor and construction crew will be equipped with a monitoring plan that details the roles and responsibilities of the monitor and the construction crew.

3. Mitigation Measure CR-2: Stop Work if Buried Resources Are Discovered Inadvertently

If buried cultural resources, such as chipped or ground stone, historic debris, building foundations, or human bone, are discovered inadvertently during ground-disturbing activities, work will stop in that area and within 100 feet of the find until a qualified archaeologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the City and other appropriate agencies.

If any human remains are discovered or recognized in any location other than a dedicated cemetery, there will be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the Santa Clara County coroner has been informed and has determined that no investigation of the cause of death is required. If the coroner determines that the remains are of Native American origin, it is necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (California Public Resources Code 5097).

4. Mitigation Measure HAZ-1: Prepare a Risk Assessment

A risk assessment will be prepared and procedures established before construction to address the identification, excavation, handling, and disposal of hazardous materials. If contaminated soil or groundwater is encountered, SJRA will notify the appropriate local environmental management agencies (including, but not limited to, Gary Lynch of the Environmental Services Department) and local fire departments. SJRA will ensure that any identified environmental site conditions that may represent a risk to public health and safety will be remediated in accordance with federal, state, and local environmental laws and regulations. All recommendations in the risk assessment, including removal of contaminated soil and other mitigation of contaminated soil, will be implemented by SJRA and all its representatives, including contractors and earthwork construction workers, such that people are not exposed to an environmental condition on the project site as a result of an existing sources of contamination.

5. Mitigation Measure HAZ-2: Control Contamination Resulting from Previously Unidentified Hazardous Waste Materials

In the event that previously unidentified waste or debris is discovered during construction/grading activities, and the waste or debris is believed to include hazardous waste or materials, the contractor shall immediately stop work in the vicinity of the suspected contaminant, remove workers and the public from the area, notify the resident inspector, secure the area as directed by the resident inspector, and notify the City of San Jose Hazardous Waste/Materials Coordinator and San Jose Fire Department.

6. Mitigation Measure WQ-1: Implement Best Management Practices to Control Discharge of Construction-Related Pollutants to Surface Waters

The contractor will implement all BMPs listed in the prepared SWPPP during construction activities. These BMPs could include the following:

- Roads used during construction shall be continuously swept and cleaned of accumulated earth during project construction.
- Excavated materials deposited or stored onsite temporarily shall not be placed in or adjacent to open water channels and shall be wetted and covered as necessary to prevent runoff and erosion.
- Oils, fuels, and other toxicants spilled or deposited near the project site shall be removed and disposed of according to applicable laws and regulations.
- Project construction shall be conducted during the dry season. Some of these BMPs are likely to be included in the SWPPP, but the SWPPP would also contain more detailed and prescriptive practices to be implemented during the construction period.

7. Mitigation Measure WQ-2: Develop a Hazardous Materials Management Plan

As required by the SWPPP, the project proponent will develop and implement a hazardous materials management plan to reduce the likelihood of spills of toxic chemicals or other hazardous materials during construction. A specific protocol for the proper handling and disposal of materials used or produced onsite will be established before beginning construction and will be strictly enforced by the project proponent.

8. Mitigation Measure N-1: Employ Noise-Reducing Construction Practices

To reduce the noise effects from project construction, the following measures will be implemented during all construction on the site:

- Construction activity will be restricted to between 7:00 a.m. and 7:00 p.m., Monday through Friday, for any work with 500 feet of any residential unit. No construction activities will occur on Sundays or holidays.
- Weekend construction hours, including staging of vehicles, equipment, and construction materials, will be limited to Saturdays between the hours of 9:00 a.m. to 5:00 p.m. Permitted work activities will be conducted exclusively within the interior of enclosed building structures, provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors, and idling trucks will not be permitted. The developer will be responsible for educating all contractors and subcontractors of these construction restrictions. Rules and regulations pertaining to all construction activities and limitations, along

with the name and telephone number of a contractor-appointed disturbance coordinator, will be posted in a prominent location at the entrance to the job site.

- Solid plywood fences will be constructed around construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- All internal combustion engine-driven equipment will be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Stationary noise generating equipment, such as air compressors and portable power generators, will be located as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction area.
- Unnecessary idling of internal combustion engines will be prohibited.
- Businesses, residences, and other noise-sensitive land uses adjacent to construction sites will be notified of the construction schedule in writing.
- A “noise disturbance coordinator” responsible for responding to any local complaints about construction noise will be designated. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, faulty muffler) and institute reasonable measures to correct the problem. The name and telephone number of the disturbance coordinator will be posted conspicuously at the construction site.

9. Mitigation Measure N-2: Disseminate Essential Information to Residences and Implement a Complaint/Response Tracking Program

The construction contractor shall notify residences within 500 feet of the construction areas of the construction schedule in writing before construction begins. The construction contractor shall be responsible for responding to complaints regarding construction noise, determining the cause of the complaint, and ensuring that reasonable measures are implemented to correct the problem. A contact telephone number for the construction contractor, City, and SJRA will be conspicuously posted construction site fences and will be included in the written notification of the construction schedule sent nearby residents.

- a. **Operational noise:** Noise resulting from operation of the proposed project would include recreational use of the park and general maintenance activities (i.e., landscaping and facility maintenance). Recreational activities from parks and other similar land uses are usually quiet in nature and do not typically generate noise substantial levels of noise. It is anticipated that use of the park would not generate noise levels in excess of the City’s standard of 60 dBA Ldn. As previously mentioned, the existing noise level in the project area is in the range of 50–70 dBA. It is not anticipated that users of the park would be exposed to noise levels from surrounding land uses in excess of the City’s standard of 70 dBA.

Maintenance activities, such as landscaping activities, typically include powered equipment (i.e., lawn mowers and leaf blowers) that could potentially generate noise levels in excess of the City’s standard of 60 dBA-Ldn. Because maintenance activities are typically short-term and transitory in nature, impacts from maintenance activities are considered less than significant.

- b. **Railroad noise:** The existing UPRR line located adjacent to the project site between Bellevue and San Jose Avenues are anticipated to expose individuals using the park to noise from rail activities. Approximately four trains per day, consisting of 100 cars per train, use the rail line adjacent to the project site, traveling an average speed of 40 miles per hour (Bromley pers.

comm.). Rail noise was modeled based on data provided by UPRR and Federal Transit Administration methodology. Based on the modeling results, it is anticipated that noise from rail operations would generate noise levels of 70 dBA at a reference distance of 50 feet. With only four trains per day, the Ldn values for train activities are expected to be less than 70 Ldn. Given this level and distance attenuation (approximately 3 dB per doubling of distance), it is anticipated that individuals using the park would be exposed to rail noise levels below the City's threshold of 70 Ldn from train activity. Also, short-duration noise from trains generally would not adversely affect use of the park. Therefore, this impact is considered less than significant.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **October 15, 2003**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: September 25, 2003

Deputy

Adopted on: _____

Deputy